

### REMARKS

The examiner's allowance of claims 10-11 is acknowledged.

The examiner has rejected independent claim 1 under 35 USC 103(a) as being unpatentable over Groenke in view of Halperin. Particularly in view of the amendment made to claim 1, the examiner is urged to reconsider and withdraw the rejection.

The examiner continues to assert that claim 1 covers something that applicant did not intend. The examiner's position is that the reference in the claim to a "manually operable control mechanically connected with and in the vicinity of at least one of the first and second electrodes" is met by a force sensor or an accelerometer being used to measure movement of the chest. The way the examiner sees it, the forces applied to the patient's chest during CPR by the rescuer's hands are what produce an electrical output at the force sensor or accelerometer, and this meets the claim language, "the manually operable control being operable by movements of the rescuer's hand or fingers." In short, the examiner sees the force sensor or accelerometer as a manually operable control that is operable by movements of the rescuer's hand or fingers.

As we have indicated in earlier communications, we do not agree with the examiner's reading of the claim, and we reserve the right to pursue claims of the original breadth. But to expedite prosecution of this application, applicant has amended claim 1 to explicitly indicate that the "manually operable control [is] other than a force sensor, and other than an accelerometer". With this amendment, it is abundantly clear that neither Groenke nor Halperin come anywhere close to disclosing the invention of claim 1. Neither shows a manually operable control other than a force sensor and other than an accelerometer positioned in the vicinity of the electrodes.

Accordingly, claim 1 is in condition for allowance.

The remaining claims are either allowed or are properly dependent on claim 1, and thus allowable therewith. Each of the dependent claims adds one or more further limitations that enhance patentability, but those limitations are not presently relied upon. For that reason, and not because applicants agree with the examiner, no rebuttal is offered to the examiner's reasons for rejecting the dependent claims.

Applicant : Gary A. Freeman  
Serial No. : 10/804,312  
Filed : March 18, 2004  
Page : 6 of 6

Attorney's Docket No.: 04644-097002

Upon reviewing the file, applicant notes that they have not received initialed copies of the enclosed PTO Forms 1449 and 892 that accompanied an information disclosure statement filed June 10, 2004. Applicant's records show that this information disclosure statement complied with 37 CFR 1.97. Thus, we respectfully request that the examiner initial and return these forms as soon as possible.

Please apply any other charges or credits to deposit account 06-1050.

Respectfully submitted,

Date: \_\_\_\_\_

9/14/07



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# **Notice of References Cited**

Application/Control No.

09/794,320

Applicant(s)/Patent Under

Reexamination

FREEMAN, GARY A.

Examiner

Kristen L Droesch

Art Unit

3762

Page 1 of 1

## **U.S. PATENT DOCUMENTS**

| * |   | Document Number<br>Country Code-Number-Kind Code | Date<br>MM-YYYY | Name            | Classification |
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|   | B | US-6,224,562                                     | 05-2001         | Lurie et al.    | 601/41         |
|   | C | US-  |                 |                 |                |
|   | D | US-  |                 |                 |                |
|   | E | US-  |                 |                 |                |
|   | F | US-  |                 |                 |                |
|   | G | US-  |                 |                 |                |
|   | H | US-  |                 |                 |                |
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|   | J | US-  |                 |                 |                |
|   | K | US-  |                 |                 |                |
|   | L | US-  |                 |                 |                |
|   | M | US-  |                 |                 |                |

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|   | T |  |                 |         |      |                |

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| * |   | Include as applicable: Author, Title Date, Publisher, Edition or Volume, Pertinent Pages) |
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|   | W |   |
|   | X |   |

\*A copy of this reference is not being furnished with this Office action. (See MPEP § 707.05(a).)  
Dates in MM-YYYY format are publication dates. Classifications may be US or foreign.

|  |  |                                       |                               |
|--|--|---------------------------------------|-------------------------------|
| Substitute Form PTO-1449<br>(Modified)<br><br><b>Information Disclosure Statement<br/>by Applicant</b><br>(Use several sheets if necessary)<br><br>(37 CFR §1.98(b)) | U.S. Department of Commerce<br>Patent and Trademark Office | Attorney's Docket No.<br>04644-097001 | Application No.<br>09/794,320 |
|  | Applicant<br>Gary A. Freeman                               |                                       |                               |
|  | Filing Date<br>February 27, 2001                           | Group Art Unit<br>3762                |                               |

| U.S. Patent Documents |           |               |            |                  |       |          |                            |
|-----------------------|-----------|---------------|------------|------------------|-------|----------|----------------------------|
| Examiner Initial      | Desig. ID | Patent Number | Issue Date | Patentee         | Class | Subclass | Filing Date If Appropriate |
|                       | AA        | 6351671       | 02/26/02   | Myklebust et al. | 607   | 5        |                            |
|                       | AB        | 6306107       | 10/23/01   | Myklebust et al. | 600   | 587      |                            |
|                       | AC        |               |            |                  |       |          |                            |
|                       | AD        |               |            |                  |       |          |                            |

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|---|-----------|-----------------|------------------|--------------------------|-------|----------|-------------|----|
| Examiner Initial  | Desig. ID | Document Number | Publication Date | Country or Patent Office | Class | Subclass | Translation |    |
|   |           |                 |                  |                          |       |          | Yes         | No |
|   | AE        | WO 02/15836     | 02/28/02         | PCT                      |       |          |             |    |
|   | AF        | WO 99/25306     | 05/27/99         | PCT                      |       |          |             |    |
|   | AG        |                 |                  |                          |       |          |             |    |
|   | AH        |                 |                  |                          |       |          |             |    |
|   | AI        |                 |                  |                          |       |          |             |    |

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|   | AJ        | Aase et al., "Compression Depth Estimation for CPR Quality Assessment Using DSP on Accelerometer Signals," IEEE Transactions on Biomedical Engineering, Vol. 49, No. 3, March 2002 |
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|   | AL        |  |
|   | AM        |  |

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| Examiner Signature   | Date Considered |
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| * | B | US-5,662,690                                     | 09-1997         | Cole et al.    | 607            | 5    |
| * | C | US-4,586,383                                     | 05-1986         | Parker         | 434            | 265  |
| * | D | US-4,610,254                                     | 09-1986         | Morgan et al.  | 128            | 419D |
| * | E | US-5,511,553                                     | 04-1996         | Segalowitz     | 128            | 696  |
| * | F | US-4083138                                       | 05-1978         | Diack et al    | 128            | 419D |
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|   | J | US-  |                 |                |                |      |
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|   | P |  |                 |         |      |                |  |
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|   | T |  |                 |         |      |                |  |

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|---|---|---|
|   | U |   |
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|   | W |   |
|   | X |   |

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|--|--|---------------------------------------|-------------------------------|
| Substitute Form PTO-1449<br>(Modified)   | U.S. Department of Commerce<br>Patent and Trademark Office | Attorney's Docket No.<br>04644-097001 | Application No.<br>09/794,320 |
| <b>Information Disclosure Statement<br/>by Applicant</b><br>(Use several sheets if necessary)<br>(37 CFR §1.98(b)) |  | Applicant<br>Gary A. Freeman          |                               |
|  |  | Filing Date<br>February 27, 2001      | Group Art Unit<br>3762        |

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|                       | AH        | 5617853       | 04/08/97   | Morgan          | 128   | 640      |                            |
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|                       | AV        | RE 34800      | 11/29/94   | Hutchins        | 128   | 898      |                            |
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| Examiner Initial  | Desig. ID | Document Number | Publication Date | Country or Patent Office | Class | Subclass | Translation |    |
|   |           |                 |                  |                          |       |          | Yes         | No |
|   | AX        | 9713345.8       | 06/24/97         | Great Britain            |       |          |             |    |

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| <b>Information Disclosure Statement<br/>by Applicant</b><br>(Use several sheets if necessary)<br>(37 CFR 51.98(b)) |  | Applicant<br>Gary A. Freeman          |                               |
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|   |              |                    |                     |                             |       |          | Yes         | No |
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|   | ABB          |                    |                     |                             |       |          |             |    |

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|   | ADD          | Force Sensing Resistors - An Overview of the Technology, FSR Integration Guide & Evaluation<br>Parts Catalog with Suggested Electrical Interfaces (no date)                                       |
|   | AEE          | Heartstream - The Background Behind Our Technology, <a href="http://www.heartstream.com/techbk.htm">http://www.heartstream.com/techbk.htm</a> ,<br>printed from Internet 06/25/99                 |
|   | AFF          | Flewelling, Nellcor Incorporated, Noninvasive Optical Monitoring, Chap. 88, pp. 1346-1353. CRC<br>Press, Inc., 1995   |

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| Examiner Signature  | Date Considered |
| EXAMINER: Initials citation considered. Draw line through citation if not in conformance and not considered. Include copy of this form with<br>next communication to applicant. |                 |